IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 29TH MAY, 2007 / 8TH JYAISHTA, 1929

WP(C).No. 14562 of 2007(H)

PETITIONER:

DR.DAISY JOSEPH, AGED 47 YEARS,
W/O. P.M. JOSEPH, STAYING AT IYYAMTHALAM-
PANACHIKKAL HOUSE, P.O. SANKARAMBADY,
KARIVEDAKAM VILLAGE, KASARAGOD TALUK,
KASARAGOD DISTRICT.

BY ADV. SRI.V.N.RAMESAN NAMBISAN

RESPONDENTS:

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1. THE BRANCH MANAGER,
SOUTH INDIAN BANK LIMITED,IDUKKI BRANCH.

2. THE CHIEF MANAGER (AUTHORISED OFFICER),
SOUTH INDIAN BANK LIMITED, REGIONAL OFFICE,
ERNAKULAM.

3. MRS. MARY JOSEPH, W/O. A.M.JOSEPH,
POWER OF ATTORNEY HOLDER OF DR.DAISY JOSEPH,
PADUPPU ETTIYIL HOUSE, SANKARAMBADY P.O.,
KARIVEDAKAM, KASARAGOD.

4. MRS. JULA S.NAIR, W/O.K.SASIDHARAN NAIR,
239, 9TH CROSS, SREE RAMPURA-II STAGE,
MYSORE-570 023.

BY ADV. SRI.K.PRABHAKARAN, SC,SOUTH INDIAN BANK

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO.14562 OF 2007)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of Power of Attorney executed by petitioner in favour of R3 dtd.19.5.2005.

Ext.P2: Copy of Demand Notice dtd.22.2.2007 issued by R2 to the petitioner.

Ext.P3: Copy of Lawyer Notice dtd.19.3.2007 sent by the petitioner against Ext.P2.

Ext.P4: Copy of reply dtd.27.3.2007 sent by R2 to Ext.P3 Lawyer Notice.

Ext.P5: Copy of Power of Attorney dtd.4.6.2005 purported to have been, but not, executed by petitioner in favour of R3.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) NO. 14562 OF 2007 - H

Dated this the 29th day of May, 2007

J U D G M E N T

The petitioner is the owner of 30 cents of land and house situated in R.S.No.36/1 of Karivedakam Village of Kasaragod Taluk. The petitioner appointed her mother- the third respondent as the Power of Attorney Holder to look after the above property and also to avail loan on the strength of mortgaged property only for improvement of the property as per Ext.P1 Power of Attorney. However, the petitioner alleges that without her knowledge and consent, the fourth respondent -the petitioner's sister fabricated Ext.P5 Power of Attorney and on the strength of that Power of Attorney, borrowed money from the first respondent-Bank on the strength of mortgage of the above property. Since respondents 3 and 4 did not repay the amounts, the Bank has initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Securitisation Act') to bring the security interest to see that the petitioner is challenging those proceedings.

2. I am afraid that I cannot entertain this writ petition for many reasons. First of all, the South Indian Bank Limited is not a State or other authority amenable to the writ jurisdiction of this Court. Secondly, disputed questions of facts are involved relating to forgery of documents which cannot be decided without taking evidence. In the above circumstances, the remedy available to the petitioner is either filing a suit against respondents 3 and 4 or to file an appeal before the Debt Recovery Tribunal challenging the impugned orders under the Securitisation Act as provided in the Act itself. Therefore, without prejudice to such right, the writ petition is dismissed.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:13-02-2007